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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BUTTE DIVISION

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|------------------------------|---|--------------------------------|
| JOHN BRANDON LACEY, |) | CV-10-47-BU-RFC-CSO |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | ORDER ADOPTING FINDINGS |
| |) | AND RECOMMENDATIONS OF |
| HEAD JAILER, GALLATIN |) | U.S. MAGISTRATE JUDGE |
| COUNTY; HEAD JAILER, |) | |
| BROADWATER COUNTY; |) | |
| ATTORNEY GENERAL OF |) | |
| THE STATE OF MONTANA, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

On September 21, 2010, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 5*) as to the Rule 4 prescreening of what she construed to be Lacey's 28 U.S.C. § § 2241(c)(3) petition for writ of habeas corpus (*Doc. 1*). Lacey is a pre-trial detainee in state custody who asks this Court to enjoin the state court proceedings against him on the grounds that his

right to a speedy trial has been violated. Magistrate Judge Ostby concluded there are no extraordinary circumstances that would justify this court's interference in ongoing state court proceeding, citing *Younger v. Harris*, 401 U.S. 37 (1971). Magistrate Judge Ostby therefore recommends this Court dismiss the petition without prejudice, deny Lacey a certificate of appealability, and enter a judgment of dismissal.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). The time for objection has expired without objection from Lacey. This failure to object waives all objections to the findings of fact, *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999), but this Court must still review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

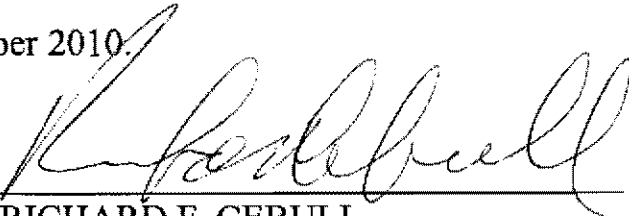
After a reviewing the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Lacey's petition (*Doc. 1*) is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

The Clerk of Court is directed to enter, by separate document, a judgment of dismissal.

DATED the 19th day of October 2010.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE